



INFORMATION PACKET

HOW TO BECOME A CERTIFICATED AIR CARRIER

Prepared by:

**Air Carrier Fitness Division
Office of the Secretary
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590**

202-366-9721

August 2000

PART I

APPLICATION PROCEDURES AND EVIDENCE REQUIREMENTS

Under Title 49 of the United States Code (“the Statute”),¹ anyone who wants to provide air transportation service² as an air carrier must first obtain two separate authorizations from the Department of Transportation: “safety” authority in the form of an Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA),³ and “economic” authority from the Office of the Secretary of Transportation (the Department) in the form of either a certificate for interstate or foreign passenger and/or cargo authority issued under section 41102 of the Statute, or an all-cargo air transportation certificate issued under section 41103 of the Statute.⁴ Certificates may authorize either scheduled service or charter-only service. A certificate authorizing interstate⁵ or all-cargo air transportation⁶ may be issued after a finding by the Department that the applicant is “fit, willing, and able” to perform the proposed service. The award of a certificate for foreign authority⁷ must also be found to be “consistent with the public convenience and necessity.”

¹ Copies of the Statute may be obtained directly from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

² “Air transportation,” as defined by section 40102(a)(5) of the Statute, means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, in interstate or foreign air transportation.

³ The requirements for obtaining FAA safety authority are contained in 14 CFR Parts 119, 121, and 135.

⁴ There are certain exceptions to this rule. Section 40109 of the Statute allows the Department to grant exemptions from the certificate requirement where it finds that such exemptions are “consistent with the public interest.” Such exemptions may be granted to individual air carriers or to groups or classes of air carriers. Carriers proposing to operate only small aircraft, that is aircraft designed for 60 or fewer seats or with a payload capacity of 18,000 pounds or less, are exempt from the certificate requirements and may obtain authority as an air taxi operator or commuter air carrier in accordance with the provisions of Part 298 of the Department’s Regulations (14 CFR Part 298).

⁵ “Interstate air transportation,” as defined in section 40102(a)(25) of the Statute, means operations between points in the United States, as well as between points in the United States, on the one hand, and points in U.S. territories or possessions, on the other, or between points in U.S. territories or possessions.

⁶ “All-cargo air transportation,” as defined in section 40102(a)(10) of the Statute, means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

⁷ “Foreign air transportation,” as defined in section 40102(a)(23) of the Statute, means operations between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

This packet contains information on how to obtain interstate, foreign, or all-cargo certificate authority. Information on other types of air carrier authority may be obtained from the Department as follows:

For information on **air taxi authority**, contact:

Program Management Branch
Federal Aviation Administration
AFS-260, Room 831
800 Independence Avenue, S.W.
Washington, D.C. 20590
(202) 267-7773 or 267-7897

For information on **commuter air carrier authority**, contact:

Air Carrier Fitness Division
Department of Transportation
X-56, Room 6401
400 Seventh Street, S.W.
Washington, D.C. 20590
(202) 366-9721

For information on obtaining an **Air Carrier Certificate from the FAA**, contact a local FAA Flight Standards District Office in your area or:

Flight Standards Certification Program Office
Federal Aviation Administration
AFS-900, Suite 131
45005 Aviation Drive
Dulles, Virginia 20166
(703) 661-0500

APPLICATION

Reprinted in Part III of this packet is a copy of Part 201 of the Department's Regulations, which describes the rules for filing an application for certificate authority. Separate applications are required to obtain interstate authority and foreign authority. A sample application is included in Part II of this packet.

The fees for filing applications for certificate authority are as follows:

Interstate scheduled certificate authority	\$ 850
Foreign scheduled certificate authority	\$ 900
Both interstate and foreign scheduled certificate authority	\$1,750
Interstate charter certificate authority	\$ 850
Foreign charter certificate authority	\$ 600
Both interstate and foreign charter certificate authority	\$1,450
All-cargo air transportation certificate authority	\$ 670

At the time an application is filed, the supporting information that the applicant will rely on to convince the Department that it is “fit” to operate should be submitted. The evidentiary material required to be submitted with the application is detailed in section 204.3 of Part 204 of the Department's Regulations, a copy of which can be found in Part III of this packet. A discussion of these requirements is contained in the section below on “**Evidence Requirements.**” Should the applicant wish to seek confidential treatment for any portion of this material, it should use the procedures set forth in section 302.12 of the Department's Regulations, a copy of which is included in Part III. A sample of such an application is included in Part II. Information for which confidential treatment will generally be granted includes the specific markets to be served, proposed frequency of service, fares, estimated revenue passenger miles and available seat miles, and projected load factor. We may also grant confidential treatment to certain financial documents, such as aircraft leases, loan agreements, and financial statements of individuals or entities providing funding to the applicant. If an applicant is seeking both interstate and foreign certificate authority, the evidence in support of the applicant's fitness to operate need only be included with one of the applications and incorporated by reference in the other.

Applicants for certificate authority are also required to serve their applications on persons who may have an interest in the proposed operation. A list of the persons requiring service is contained in section 302.203(b) of the Department's Regulations, which may be found in Part III. In addition to these persons, a copy of the application should be provided to the FAA Flight Standards District Office with which the applicant has filed, or intends to file, its request for FAA authority.

An original and 6 copies of each certificate application and evidentiary material, together with the required filing fee, should be sent to:

Department of Transportation Dockets
Room PL-401
400 Seventh Street, S.W.
Washington, D.C. 20590
(800) 647-5527

APPLICATION PROCESSING PROCEDURES

Applications for certificate authority should be *complete* when filed, that is, all of the information required by section 204.3 to determine a company's fitness to operate, as discussed below in **"Evidence Requirements,"** should be included. Applications should *not* be filed with the Department until after the applicant has progressed to the point where it has resolved all significant issues relating to its fitness. Thus, before filing an application with the Department, an applicant should have (1) determined its operating proposal, including identifying the aircraft it intends to use, and prepared complete revenue, expense, and traffic data supporting its plan, (2) identified all key management personnel, and (3) obtained the funding needed to meet the Department's financial fitness criteria, or, at a minimum, developed a reasonable and verifiable plan for doing so.

Applications for certificate authority are processed under Subpart B of the Department's Procedural Regulations (14 CFR 302.201 *et seq.*, which is reprinted in Part III). Upon receipt of an application, the Department's Dockets Section will assign it a docket number and place the application in a file which is available to the public at the Department's headquarters and via the internet [<http://dms.dot.gov>]. The application will then be forwarded to the Department's Air Carrier Fitness Division for review and processing.

If some additional or clarifying information is required, the Air Carrier Fitness staff will so advise the applicant and provide it with an opportunity (usually 30 days) to submit any required material. Any such subsequent filing, as well as any amendments to the application, such as changing the type of authority requested or the applicant's service proposal, should be submitted to Dockets, with an original and 6 copies, referencing the docket number(s) assigned to the application.

Interested persons have 21 days from the date the application (or any subsequent amendment) is filed to submit answers to the application in support of or in opposition to the authority requested. If an answer is filed, the applicant has 14 days to file a reply.

After review of the filed documents, including any answers, the Department will decide on the procedures it will follow in handling the application.⁸

Because of the substantial drain that processing incomplete or poorly prepared applications places on the Department--particularly in diverting staff resources from processing the applications of persons who are well prepared--if an applicant is unable to provide complete information in its application or in response to the staff's initial information request, the Department may dismiss or reject the application. Generally, such action is taken "without

⁸ As part of its review, the Department will contact the FAA to determine the status of any application that the applicant has filed with that agency, and whether the FAA has uncovered any potential problems or concerns with the applicant. While an applicant may wish to pursue its Department and FAA authorities simultaneously, the FAA generally will not proceed to review an applicant's operations, maintenance, or training manuals unless it has been notified by the Department that there are no significant problems with the application.

prejudice” to the applicant’s refiling for certificate authority at a later date when it is able to present a complete application.

Where the application is complete, and where there appear to be no material issues of fact that cannot be resolved on the written record, the Department will usually act on the application by use of “show-cause” procedures.⁹ In such cases, the Department will verify with the FAA that the applicant has, at a minimum, filed its Preapplication Statement of Intent seeking the appropriate FAA safety authority, and has entered into letters of intent for the lease or purchase of aircraft and facilities. The Department’s Assistant Secretary for Aviation and International Affairs will then issue an order tentatively finding the applicant fit and proposing to issue it a certificate authorizing the requested service. A copy of the order will be sent to the applicant, any person who has filed an answer to the application, and interested FAA offices. A summary of the order will also be published in the Federal Register. The order will allow interested persons an opportunity (usually 14 days) to file comments and “show cause” why the Department should or should not adopt its proposed fitness findings and award of authority.

If no objections are filed, an order finalizing the tentative findings will be issued. If objections are filed, the applicant will have an opportunity to reply to them (usually 7 days) before further Department action is taken. Based on these responses, the Department will then determine what further procedural steps, if any, may be warranted, such as requesting additional information from the applicant or setting the case for hearing before an Administrative Law Judge. If such further procedures are not employed, the Department will issue a final order on the merits.

In some instances, the Department may impose conditions on the applicant’s authority in the final order--such as a limit on the duration of the authority (*e.g.*, for one year), on the number, type, or size of aircraft that the applicant may operate, or on the type of service that can be provided. If, at a later date, the company wished to operate beyond those limits, it would need to notify the Department and establish its fitness to do so.

If an application to provide service to a foreign point is involved, the Department’s final decision to grant or deny the requested authority is subject to review by the President of the United States, who has 60 days from the date the Department sends him the decision to review the action. If the Department’s decision is not disapproved by the President, it will

⁹ In cases where there are substantial questions about a carrier’s fitness to operate, the Department may issue a show-cause order proposing to deny the application. If an application raises substantive questions of fact, is controversial, or presents complex issues that cannot be resolved on the written record, the Department may direct that the matter be considered in an oral evidentiary hearing before an Administrative Law Judge. Once the application is assigned, the Judge will set a procedural schedule for exhibits, hearings, and briefs. After these procedures have been completed, the Judge will review the information submitted and the arguments on brief, and issue a recommended decision on the applicant’s fitness to provide the air transportation it proposes. After the Judge issues a decision, the Department’s Assistant Secretary for Aviation and International Affairs will review that recommendation and issue a final decision on the application.

become final. Department actions on requests for interstate authority are not subject to review by the President, and are final at the time they are issued.

At the time the Department issues its final decision and award of authority, if the applicant does not hold an Air Carrier Certificate and Operations Specifications from the FAA authorizing it to conduct its proposed operations, the economic authority will not become *effective* until the applicant has received the required FAA authority and presented evidence of it to the Department. Further, at the time it presents its FAA documents to the Department, the applicant must also supply certain updated fitness information and proof of insurance coverage (see the discussion below under ‘**Other Requirements**’), and meet any other conditions imposed by the Department in its final decision.

Under the Department's Regulations (section 201.5 reprinted in Part III), an applicant may not (1) advertise, list schedules, or accept reservations for its proposed air transportation until the Department issues its final decision on the applicant's certificate application, or (2) accept payment or issue tickets for its proposed air transportation until the certificate has been made *effective* by the Department. An applicant may advertise or list schedules for its proposed services between the time the Department issues its final decision on the application and the time the authority is made effective *only* if any such listings or advertisements prominently state “This service is subject to receipt of government operating authority.”

In calculating start-up time, an applicant should anticipate that the Department will require a *minimum of four months* to process the application beginning from the time the Department receives a *complete* application. Additional time would be required if objections are filed or complex or unusual issues are raised by the application. This estimate does not take into account the time required to complete any necessary FAA certification work.

EVIDENCE REQUIREMENTS

The Department uses a three-part test to determine the fitness of a company. First, the Department examines the *managerial competence* of the applicant's key personnel to determine whether they have sufficient business and aviation experience to operate an airline, and whether the management team, as a whole, possesses the background and experience necessary for the specific kind of operations proposed. Second, the Department reviews the applicant's *operating and financial plans* to see whether the applicant has a reasonable understanding of the costs of starting its operations and has a specific and realistic plan for raising the necessary capital. Before being granted effective air carrier authority, the applicant must submit third-party verification that it has acquired the necessary capital. Third, the Department looks at the applicant's *compliance record* to see whether it and its key personnel have a history of safety violations or consumer fraud activities that would pose a risk to the traveling public, or whether other factors indicate that the applicant is unlikely to comply with government laws, rules and directives. In addition, the applicant must establish that it is a *U.S. citizen*. The information required by Part 204 is intended to provide the Department with a sufficient basis upon which to determine whether

an applicant is qualified in each of these areas to provide the public with its proposed service.

The following pages contain a discussion of the data required by section 204.3, the rule that contains the Department's evidentiary requirements for prospective certificated air carriers. (Section 204.3 can be found in Part III of this packet.) An applicant should address each point below. If the answer to the information requested is "not applicable" or "none," please so state for each item.

NOTE: Applications should not be filed with the Department until all of the required fitness information has been assembled. The Department may dismiss or reject an application if it is found to be materially deficient in any of the data required to be filed (e.g., if the management team or financing arrangements are incomplete). If an applicant has any questions concerning the filing requirements or fitness procedures, those questions may be addressed to the staff of the Air Carrier Fitness Division (202-366-9721).

If, during the course of the Department's fitness review, any changes occur in the applicant's ownership, management team, compliance history, financial position, or service proposal so as to render inaccurate any representations of its fitness made in its application or in answers provided to subsequent information requests from the Department, the applicant must file promptly with Dockets a supplement to its application in the docket (with an original and 6 copies) describing the details of any such changes.

General

The purpose of the information described below is to provide the Department with some background on the applicant, including information on the type of service being provided currently, if any, as well as that proposed, and on its ownership structure to demonstrate that the applicant is a U.S. citizen.

Data Required

1. The name, address, telephone and fax numbers of the applicant.
2. A narrative history of the applicant.
 - a. The narrative should include when the applicant was formed and by whom, any subsequent ownership changes, the nature of the business initially and how it has changed or grown, the applicant's service area and the primary markets currently being served.
 - b. The narrative should also indicate the type of authority being requested in the application, the markets to be served, whether additional aircraft will be required in the

proposed service, and whether other changes or additions in the applicant's management team, facilities, and operations will be made if the requested authority is received.

c. If the applicant has or proposes to establish maintenance or operations bases separate from its corporate offices, the locations of those bases should be indicated.

d. If the applicant intends to contract out any maintenance, training or other operational functions, the percentage and type of such contracts should be indicated.

3. A list of the applicant's current and/or proposed fleet of aircraft, including the number and seating/cargo capacity of each type and model of aircraft and whether they are or will be owned or leased.

a. If the aircraft are currently leased, identify the lessor; if the aircraft will be leased, provide copies of letters of intent with the lessor.

b. For applicants that already operate aircraft, provide a sworn affidavit stating that each of these aircraft has been certified by the FAA and complies with all applicable FAA safety standards. For non-operating applicants, this affidavit should be submitted at the time the company's FAA documents are submitted to the Department to make its authority effective. (See Part IV of this packet for a sample of the affidavit required.)

4. A description of all authority the applicant holds or has held to conduct air transportation operations from state, federal, and foreign governments. This would include, for example, a certificate from the FAA or a Canadian Transport Commission license.

a. If new or additional authority is needed from the FAA in order to conduct the proposed operations, the status of any application for that authority, and the name, telephone number, and address of the FAA personnel responsible for processing that application should be provided.

b. If no additional authority is needed, the name, address, and telephone number of the applicant's FAA principal operations inspector should be included.

5. The form of the applicant's organization (for example, sole proprietorship, partnership, or corporation), and the state law(s) under which the applicant is organized and the date of incorporation or organization.

6. If the applicant is a corporation, a statement provided by the Office of the Secretary of State, or other agency of the state in which the applicant is incorporated, certifying that the applicant corporation is in good standing. This statement should reflect the applicant's corporate standing not more than one month prior to the date the application is filed.

7. A sworn affidavit stating that the applicant is a citizen of the United States.¹⁰ (See Part IV of this packet for a sample of the affidavit required.) If any officers, directors, owners, or other persons who have the power to influence the applicant, whether through ownership, debt, or other interest, are not U.S. citizens, state the name and citizenship of each, and describe each such person's relationship to and interest in the applicant.

8. A description of the classes or types of the applicant's stock that are authorized and the number of shares of each class or type that are issued and outstanding.

9. A list of all persons (individuals or organizations) that own or control at least 10 percent of the stock of the applicant, indicating the number of voting shares and the corresponding percentage of the total shares outstanding that are held by each, along with their address, citizenship, and principal business.

a. If any stockholder is an organization, provide the name, address, citizenship, and principal business of the individuals who own or control at least 10 percent of the stock of the organization.

b. If the applicant's stock is held by someone for the benefit or account of a third party, give the name, citizenship, and principal business of that person or organization.

c. If any of these persons are related by blood or marriage or have had any financial interest in, or serve or have served as an officer or director of any other air carrier, common carrier, or person substantially engaged in the business of aeronautics or persons whose principal business (in purpose or fact) is the holding of stock in or control of any aviation-related entity, that relationship should be described.

d. If any person or organization holds options to convert debt to equity or one type of stock to another type, identify the person or organization and discuss the circumstances under which such conversion may occur.

10. A list of the applicant's operating divisions and subsidiaries, if any, or of any other company (including any air carrier, common carrier, or person substantially engaged in the business of aeronautics) in which the applicant has a financial interest. The principal business of each of these entities, and their relationship to the applicant should be discussed.

Management Expertise and Technical Ability

¹⁰ Section 40102(a)(15) of the Statute defines a "citizen of the United States" as: (1) an individual who is a citizen of the United States; (2) a partnership each of whose partners is an individual who is a citizen of the United States; or (3) a corporation or association organized under the laws of the United States or a state, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States. In addition to meeting these specific numerical standards, we have interpreted the Statute to require that a U.S. air carrier, in fact, be under the actual control of U.S. citizens.

The purpose of this information is to demonstrate that the applicant has a sufficient number of qualified, competent personnel directing its operations who have the background and experience necessary for the kind of operations being undertaken.

Data Required

The following information concerning the existing and/or prospective key management personnel¹¹ should be submitted:

1. A chart showing positions and operating divisions within the organization that depicts which positions and functions report to whom.
2. Each key person's position and responsibilities with the applicant and the date employed or to be employed.¹²
 - a. If an individual has been employed with the applicant for a number of years, indicate all positions held during that time, with dates.
 - b. If any key person is employed or to be employed by the applicant on less than a full-time basis, state what percentage of the employee's time will be spent on the applicant's business, and provide details of his or her concurrent occupation(s).
3. A resume for each of the key personnel stating:
 - a. Full name, current address, and telephone numbers.
 - b. All previous employment (both aviation and non-aviation) including: name of employer, location (city, state), type of business, position held, description of responsibilities, and dates employed. If the previous employer held any aviation authority, state the type (*e.g.*, air taxi, commuter, fixed base operator, certificated air carrier). Any periods of unemployment should be accounted for.

¹¹ "Key personnel" refers to the President, Chief Executive Officer, Chief Operating Officer, General Manager, Chief Financial Officer, and Vice President(s), if any, the Director of Operations, the Director of Maintenance, the Chief Pilot, the Director of Safety, and the Chief Inspector, as well as the Chairman and members of the Board or other key officials who may not be involved with the day-to-day operation of the company but who are primary stockholders and/or whose influence on the policy of the applicant is, or potentially could be, substantial.

¹² In addition to the key personnel noted above, if the applicant proposes to contract out any maintenance or training functions, the corporate position that will be responsible for overseeing those contracts should be identified along with the name, background, and credentials of the individual selected for this position to oversee contracts of this type. The applicant should also indicate to whom in the corporate structure this position will report, how the oversight will be accomplished, and whether the position is part-time or full-time.

- c. Education and training, including names of institutions, dates attended, and any certificates or degrees received. If the person holds a certificate or license from the FAA (such as an Airline Transport Pilot or Airframe & Powerplant Mechanic license), these, including their numbers, should be listed, as well as the number of recorded hours of flying time for the Chief Pilot.
4. The citizenship of each such person.
5. The amount of stock (or other interest) held in the applicant, if any, by each.
6. A description of the officerships, directorships, stock (if 10 percent or more), or other interests each holds in any other air carrier, common carrier, or person substantially engaged in the business of aeronautics.
7. For the key technical personnel (Director of Operations, Director of Maintenance, Director of Safety, Chief Pilot, and Chief Inspector), a statement that these individuals meet the qualifications for their respective positions as set forth in sections 119.65 and 119.67 of the Federal Aviation Regulations (14 CFR 119.65 and 119.67).

Financial Position and Operating Plans

This information will be used to assess the financial position of the applicant and whether the applicant has a reasonable understanding of the costs of starting its operations and has access to the capital required to commence operations. Before being granted an *effective* certificate, an applicant must provide independent, third-party verification that it has available to it resources (*e.g.*, cash, lines-of-credit, bank loans) sufficient to cover all of its pre-operating costs plus the operating expenses that are reasonably projected to be incurred by the applicant during three months of “normal” operations.¹³ In calculating available resources, projected revenues cannot be included.¹⁴

Data Required

The following financial information about the applicant should be provided:

¹³ Because projected expenses during the first several months of operations do not include all costs that will be incurred during a normal period of operations, the three-month standard is based on one-quarter of the first year’s operating cost forecast. In addition, if the applicant’s most recent balance sheet shows a negative working capital balance for any ongoing operation (*e.g.*, an air taxi, aircraft leasing, or fixed base operation), we will include the amount of that working capital deficit in calculating the amount of funds that the applicant must have available to meet our financial fitness criteria for the proposed certificated operations.

¹⁴ This financing guideline should not be considered a “zero revenue test”; that is, an applicant should not construct an artificial three-month projection showing reduced operating costs based on the theory that if there are no revenues there will be fewer variable flight and customer-related expenses, and that a smaller capital reserve will therefore be needed.

1. Balance sheets and income statements of the applicant and all relevant corporations,¹⁵ together with their accompanying explanatory footnotes (including a description of the company's significant accounting policies, such as for depreciation, amortization of intangibles, overhauls, unearned revenues, and cost capitalization), for the three most recent calendar or fiscal years,¹⁶ and for a period ending no more than three months prior to the date of filing.

This requirement may be met by the submission of financial statements, preferably audited, or 10K and/or 10Q reports filed with the Securities and Exchange Commission.

- a. The financial documents should include a statement as to who prepared them, his or her qualifications and relationship, if any, to the applicant, and whether they were prepared in accordance with Generally Accepted Accounting Principles.
- b. If an annual audit, review, or compilation by an independent CPA is performed, the name and address of the firm, and type of services provided should be listed.

2. Statements which include a description of the following:

- a. Any liens or encumbrances against any of the applicant's or any relevant corporation's assets, including those pledged as collateral for any outstanding obligations.
- b. Any major commitments into which the applicant or any relevant corporation has entered during the past 6 months, or proposes to enter into during the next 6 months, including bank or other institutional financing, private financing, issuance of bonds or stock in the applicant, or major contracts to perform services.
- c. Any transactions in which the applicant or any relevant corporation sold or exchanged any major assets (aircraft, land, buildings, etc.) during the past 6 months, or plans to sell or exchange within the next 6 months, including how any funds realized from those transactions were, or are intended to be, used.

¹⁵ "Relevant corporation" is defined in section 204.2(k) as the applicant, any predecessor of the applicant (including any company in which the directors, principal officers or owners have or once had a substantial interest, or any company whose operations were acquired by, or merged with, the applicant), or any organization which has a significant financial or managerial influence on the applicant, *e.g.*, (1) a parent corporation; (2) any entity that holds more than 50 percent of the outstanding voting stock of the applicant; (3) any entity that holds between 20 and 50 percent of such stock and that also has at least a 25 percent representation on the board of directors, participates in policy-making processes, engages in substantial inter-company transactions, or has managerial personnel with common responsibilities in both companies; and (4) any subsidiary of the applicant.

¹⁶ If an applicant has been in business less than three years, only information for as long as it has been in business is required, unless there is a predecessor company. In the latter instance, information on the predecessor company is necessary. For new companies (those without any prior operations), a pre-operating balance sheet giving a complete description of the financial resources available to mount the proposed services should be filed.

d. Any liabilities of the applicant or any relevant corporation that are more than 60 days past due at the time of the application, including the amount and the circumstances under which they are past due and will be paid.

e. Any contingent liabilities that may have an effect on the applicant's or any relevant corporation's financial posture (*e.g.*, lawsuits, pending judgments), including plans to meet those obligations.

f. Any events that occurred after the preparation of the most recent financial statements that may have a significant impact on the financial position or on the operations of the applicant or any relevant corporation. If no such events have occurred, provide a statement to that effect.

3. The applicant's service proposal and a forecast balance sheet and profit and loss statement (broken down by month or by quarter) for the first normal year of certificated operations. These documents should include ample notes explaining the basis for the amounts shown and whether the statements were prepared on a cash or accrual basis. The description should be in sufficient detail to allow the Department's staff to replicate the mathematics involved and to determine the reasonableness of the forecast.

The revenue forecast should indicate:¹⁷

a. For applicants for *scheduled* authority, the proposed markets and number of daily flights in each market; for applicants for *charter* authority, the types of charters to be operated (*e.g.*, public, single-entity, Department of Defense) and the proposed geographic areas to be served.

b. The type, model, seating/cargo capacity, and number of the aircraft to be used.

c. The number of passengers or amount of cargo to be carried and expected load factors.

d. The fares or rates to be charged, and the resulting gross revenues.

e. The total number of revenue block hours and revenue miles expected to be flown, and the extent of any seasonal traffic peaks.

The expense data should show:

¹⁷ If the applicant so requests under 14 CFR 302.39, the Department will generally grant confidential treatment to information identifying the specific markets to be served, proposed frequency of service, fares, estimated revenue passenger miles and available seat miles, and projected load factor. However, if the applicant requests confidential treatment of information identifying its proposed markets and related traffic forecasts, it must provide for the public record a brief description of the type of markets/cities to be served (*i.e.*, short-, medium-, or long-haul markets, from small, mid-size, or large cities).

- a. Detail by expense category (direct and indirect), indicating how the amounts were computed. Applicants proposing to operate more than one aircraft type or model should include separate estimates of expenses for training, maintenance, preparation of manuals, etc., for each aircraft type or model.
 - b. For indirect expenses, if the applicant is engaged in other aviation-related (*e.g.*, aircraft leasing or repair station) operations, expenses should be allocated on a rational basis between the proposed certificated operations and the other operations, with appropriate explanations. The applicant should prepare a consolidated forecast income statement for the entire business as well as separate forecast statements for each operating segment, including the proposed certificated operation.
 - c. If aircraft or other facilities are to be acquired to conduct the proposed services, a description of the plans for obtaining and financing those items should be provided.
4. An estimate of the amount of capital the applicant will need to commence operations which shows (1) the basis of the estimate (*e.g.*, the amounts for pre-operating costs, including aircraft deposits or leases, office and hangar space, insurance, salaries, training, FAA and Department certifications, working capital, etc.), and (2) the proposed form and source of capital.
- a. If the resources of an individual or other organization will be made available to the applicant in order to sustain operations, provide a statement from the individual or organization of the amount of such available resources and the terms or conditions under which such funds will be provided. Copies of the personal or corporate financial statements of the individual or organization should also be provided. The liquidity of any assets, other than cash, should be made clear through appropriate footnotes, *e.g.*, the current market value of stocks and bonds that can be readily converted to cash should be noted. Wherever possible, third-party verification of the assets and values should be provided (*e.g.*, letters from banks or stockbrokers holding liquid assets, or recent appraisals of real assets).
 - b. If borrowed capital or a line-of-credit is to be employed, the total amount, current balance, source, security, provisions to convert the debt to equity, and terms of repayment to the lender should be stated. Verification of this information from the lender should be provided.
 - c. If financing is to be obtained through a private stock offering, verification from the underwriter as to the status of the offering should be provided and copies of private placement agreements or offering documents should be submitted. If capital is to be sought through a public stock offering, copies of the offering documents filed with the Securities and Exchange Commission should be included.
 - d. A letter from the applicant's bank confirming the amount on deposit and bank loans and lines-of-credit, if any, should be provided.

5. A description of all outstanding judgments against the applicant, relevant corporations, key personnel employed by each, or any person having a substantial interest in the applicant.

a. For judgments of more than \$5,000, include a brief summary of the circumstances leading to each judgment, the amount of each judgment, the party to whom it is payable, how long it has been outstanding, and its current status.

b. For judgments of less than \$5,000, the list need only identify the company or person involved and the total amount of the judgment still owed.

Compliance Disposition

The purpose of evaluating compliance disposition is to assure that the company and the personnel running the company do and will abide by the laws, rules, and regulations governing the applicant's operations and that management will be diligent in maintaining safe operations.

Data Required

The following information about the compliance history of the applicant, its owners, related companies, and their key personnel should be filed:

1. A description of the current status of all pending investigations, enforcement actions, and formal complaints filed with or instituted by the Department, including the FAA, involving the applicant, relevant corporations, their key personnel (employed or to be employed) or persons having a substantial (*i.e.*, 10 percent or more) interest in any of these companies, involving the Statute, and the rules and regulations of the Department, including the FAA.

a. If any of these persons were affiliated (as a partner, officer, director, or stockholder) with any air carrier which, at the time of such affiliation, was found to have committed knowing, willful violations of the Statute or any order, rule or regulation issued pursuant to that Statute, such actions should be described.

b. The complaint or action should be identified, together with a brief summary of the circumstances and the current status.¹⁸ By “actions” or “complaints,” we mean those that have actually been filed with or taken by some official agency such as the Department, including the FAA, or a state, irrespective of whether the company or person believes it was or is guilty. For example, if the FAA proposed a civil penalty in an enforcement action against a company and the company made a compromise payment

¹⁸ Special attention should be paid to the Directors of Maintenance, Operations, and Safety and the Chief Pilot and Chief Inspector, as persons holding these positions are more likely than others to be cited for FAA violations.

in settlement, that FAA action must be considered, even though the payment may not have been an admission of guilt.

2. A description of any charges (civil or criminal) within the past 10 years brought against any of the persons or companies listed above, of fraud, felony, or antitrust violations, or of unfair, anticompetitive or deceptive business practices, including their final disposition or current status.

3. A description of any aviation-related accidents or incidents which the applicant, its personnel, or any relevant corporation has had either during the year preceding the date of the application, or at any time in the past if the matter remains under investigation by the FAA, the NTSB, or by the company itself. This includes:

a. The date of the occurrence, the type of flight (Part 121, Part 135, etc.), the number of passengers on board, the extent of injuries to persons and damage to the aircraft, the name of the pilot, and any other pertinent information available. Copies of the pilot's reports, if available, should be filed.

b. The FAA and the NTSB file numbers, if known, for each accident and incident, and the findings of the NTSB and/or the FAA, including any violations cited against the company or any of its personnel, and any positive actions taken by the company as a result of the occurrence, if any were appropriate.

4. The Aviation Disaster Family Assistance Act of 1996 (Title VII of the Federal Aviation Reauthorization Act of 1996 (P.L. 101-264)) adds a new section 41113 to the Statute requiring certificated air carriers to develop and submit to the Department and the National Transportation Safety Board a plan ("accident plan") to address the needs of families of passengers and other victims involved in any aircraft accident involving an aircraft of the air carrier and resulting in a major loss of life. (See the copy of this Act included in Part III of this packet.) The requirement to file an accident plan applies not only to passenger carriers but also to all-cargo carriers, which must file a plan to cover any employee or third-party accident victims, such as cargo attendants, non-revenue passengers, or persons on the ground. Section 41113(b) of the Statute describes the specific contents of the accident plans. The accident plan to be submitted to the Department should be filed separately in Docket OST-96-1960 and should *not* be included in the application for certificate authority, although a statement that the plan has been so filed should be included. The copy to be submitted to the National Transportation Safety Board should be sent to the following address:

Office of Public Affairs
National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

5. On February 18, 1998, the Department added a new Part 243 to its rules (14 CFR Part 243; see copy included in Part III of this packet), to ensure that the United States

Government has prompt and adequate information in case of an aviation disaster occurring on a covered international flight segment. A “covered flight segment” is defined in section 243.3 as:

“a passenger-carrying flight segment operating to or from the United States (*i.e.*, the flight segment where the last point of departure or the first point of arrival is in the United States). A covered flight segment does not include a flight segment in which both the point of departure and point of arrival are in the United States.”

The rule, which was issued pursuant to the Aviation Security Improvement Act of 1990, requires that all certificated air carriers collect the full name of each U.S. citizen passenger traveling on such flight segments, and solicit a contact name and telephone number. In the case of an aviation disaster, the carrier involved would be required to provide the information to the Department of State and, in certain instances, to the National Transportation Safety Board. The Part 243 requirements apply not only to passenger carriers but also to all-cargo carriers, since they could transport cargo handlers and other persons meeting the definition of “passenger” in section 243.3.

Section 243.13 requires that each certificated air carrier that operates one or more covered flight segments file with the Department in Docket OST-98-3305 a brief statement summarizing how it will collect the passenger manifest information and transmit it to the Department of State following an aviation disaster. If the certificate authority sought would authorize the applicant to operate a covered flight segment, even though there may be no immediate plans to do so, the applicant should file the summary statement required by section 243.13. If the applicant does not intend to operate any covered flight segments in the foreseeable future, the applicant must file in Docket OST-98-3305 a statement so stating, and also stating that the applicant will not operate any covered flight segment unless and until it has filed the summary required by section 243.13. The statement or summary to be submitted to the Department should be filed separately in Docket OST-98-3305 and should *not* be included in the application for certificate authority, although a statement that the information complying with Part 243 has been so filed should be included. Summaries already filed by air carriers under section 243.13 are available for public inspection in Docket OST-98-3305, and on the Internet at <http://dms.dot.gov>. The applicant may wish to review these summaries for ideas on how it can best implement the data collection requirements of Part 243.

6. The following certification: “Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.” This certification must also be included in all subsequent written submissions filed by the applicant in connection with its application.

OTHER REQUIREMENTS

Prior to conducting any operations, an air carrier must also meet the insurance requirements set forth in Part 205 of the Department's rules, and become a signatory to the Interim Agreement of carriers, which relates to higher limits of liability for international passengers. This latter requirement applies whether or not the applicant is seeking a certificate to provide foreign air transportation. (Part 205 is reprinted in Part III of this packet. Blank copies of the Certificate of Insurance (OST Form 6410) and the Interim Agreement (OST Form 4523) are in Part IV of this packet. OST Form 4523 should be filed (an original plus three copies) separately with Dockets, *i.e.*, not assembled as part of or an exhibit to the application.)

Continuing Fitness

Once a company has been found fit initially, it becomes subject to the requirements of 49 U.S.C. 41110(e) which provide that the company must remain fit in order to continue to hold its authority to provide air transportation services. In order to ensure that a company remains fit after it is given effective authority, the Department will require the company to provide a "progress report" twelve (12) months after it commences operations. This report would include information on the company's current operations (including aircraft fleet, principal markets served, total number of employees), a summary of how its operations have changed during the year, a discussion of any changes it anticipates from its current operation during its second year, current financial statements, and information on whether the company had undergone any changes in ownership or management.

Moreover, if, after the commencement of air service, substantial changes are planned, such as a change in ownership, a major change in the management team, a major expansion in operations (*e.g.*, going from the use of "small" to "large" aircraft), or a filing for protection from creditors under Chapter 11 of the U.S. Bankruptcy Code, the Air Carrier Fitness Division must be notified promptly so it may determine whether the company will remain fit to operate. In the case of a proposed change in ownership, restructuring, or recapitalization, carriers are requested to provide a notification thirty (30) days in advance of the scheduled closing. After receiving the company's description of the proposed substantial change, the staff of the Air Carrier Fitness Division will inform the company what additional information it must file to support its fitness to continue operating in light of the proposed change.

Dormancy

In addition, if a company does not institute air transportation services within one year of being found fit by the Department to do so, its economic authority will be terminated for reason of dormancy as provided in section 204.7(a) of the Department's Regulations.

On the other hand, if a company starts its air service within one year and subsequently ceases that service, its authority to operate under its economic authority is automatically

suspended and it has one year from the date of cessation to resume service or that authority will be terminated for dormancy (see section 204.7(b)). Any carrier proposing to resume service within the one year must file with Dockets (an original and 6 copies), at least 45 days before the date on which service is expected to resume, a notice of such intent and updated fitness information as required by section 204.3. The carrier may not recommence service unless and until it is authorized to do so by the Department. If the carrier wishes to resume air service in less than 45 days, it may request a waiver from the 45-day advance notice requirements of section 204.7. Any such waiver request must be filed with Dockets (an original and 6 copies) and be accompanied by a \$280 filing fee.

If, however, the carrier will not be able to recommence operations before the end of one year, it may request a waiver from the revocation provisions of section 204.7. Such waivers are not granted routinely, but only where “good cause” is shown. In showing good cause, the company would have to provide adequate evidence that it still meets the Department's fitness criteria and that it has completed nearly all of the steps to resume operations (*e.g.*, has the necessary personnel, financial resources, and aircraft, and has resolved any problems with the FAA). The waiver request must be filed before the end of the one-year dormancy period with Dockets (an original and 6 copies) and be accompanied by a \$280 filing fee. (Sample filings are contained in Part II of this packet.)

Transfer of Authority

Certificates are not transferable without prior Department approval. Applications for transfer of certificate authority should be filed jointly by the transferor and the transferee with Dockets at least three months in advance of the proposed effective date of the transfer. Additional time would be required if objections are filed or complex or unusual issues are raised by the application. Applicable filing fees are \$290 (interstate authority) and \$255 (foreign authority). Under section 41105 of the Statute, in order to approve a transfer, the Department must find that the proposed transfer is “consistent with the public interest,” that is, that the transferee is fit to conduct the proposed operations. The Department must also analyze the effects of the transfer on (1) the viability of each carrier involved in the transfer, (2) competition in the domestic airline industry, and (3) the trade position of the United States in the international air transportation market. Applicants for a certificate transfer should describe the circumstances of the transfer, attach evidence supporting the fitness of the transferee as set forth in section 204.3, and provide sufficient information to enable the Department to analyze the effects of the transfer as noted above. In addition, a balance sheet for the air carrier immediately prior to and immediately following the projected closing date of the acquisition, as well as copies of all agreements between the transferor and transferee, should be filed. (A sample filing is contained in Part II of this packet.)

PART II

SAMPLE APPLICATIONS

The following are sample applications which may be used as a guide in preparing (1) an application for air carrier authority, (2) a notice of intent to resume service following a cessation of operations, (3) an application for a waiver from the 45-day advance filing requirement of 14 CFR 204.7, (4) an application for a waiver from the revocation for dormancy provisions of 14 CFR 204.7, (5) an application for the transfer of certificate authority, and (6) a motion to withhold information from public disclosure. The information in the brackets [] should be filled in or deleted as appropriate. For example, an applicant requesting interstate charter authority under section 41102 of the Statute would delete the references to foreign and scheduled authority.

Material in support of the applicant's fitness should be submitted as exhibits or attachments to the application. If an applicant is seeking both interstate and foreign authority, the evidence in support of the applicant's fitness to operate need only be included with one of the applications and incorporated by reference in the other.

SAMPLE APPLICATION FOR AIR CARRIER AUTHORITY

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for a certificate of public convenience and necessity under
49 U.S.C. 41102 to engage in *[interstate]* *[foreign]* *[scheduled]*
[charter] air transportation

DOCKET

APPLICATION OF
[NAME OF APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

Notice: Any person who wishes to support or oppose this application must file an answer by
[21 days after receipt of the application by the Department of Transportation] and serve that
answer on all persons served with this application.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for a certificate of public convenience and necessity under
49 U.S.C. 41102 to engage in [interstate] [foreign] [scheduled]
[charter] air transportation

DOCKET

**APPLICATION OF
[NAME OF APPLICANT]**

[Name of Applicant] submits this application for a certificate of public convenience and necessity authorizing [interstate] [foreign] [scheduled] [charter] air transportation pursuant to section 41102 of Title 49 of the United States Code ("the Statute").

In support of its application [Name of Applicant] states the following:

Applicant is a [corporation] [partnership] [sole proprietorship] organized on [date] under the laws of the State of _____. Its address and telephone are:

Applicant is a citizen of the United States as defined in section 40102(a)(15) of the Statute. [Describe the ownership of the applicant and indicate whether its officers, directors, and key personnel are U.S. citizens. If not, indicate their nationality and their relationship to, or interest in, the applicant.]

Applicant is [newly formed] [currently engaged in (describe current business)].

Applicant requests authority to engage in [interstate] [foreign] [scheduled] [charter] air transportation of persons, property, and mail:*

* The applicant does not have to request authority to carry persons, property, and mail. It may request passenger only, cargo only, mail only, passenger and cargo, passenger and mail, or cargo and mail authority.

[Describe proposed operations, including markets to be served, and aircraft to be used.]

Information in support of the applicant's fitness to conduct the proposed air transportation operations is contained in *[Exhibits]* *[Attachments]* 1 through ____.

[If applying for both interstate and foreign authority, add the following paragraph to the application for foreign authority:

Concurrently, applicant is seeking authority to engage in interstate air transportation. Information in support of the applicant's fitness to operate has been included with that application and is incorporated by reference here. Additional information in support of the applicant's proposed foreign air transportation operations is included as *[Exhibits]* *[Attachments]* 1 through ____.]

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I *[the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant]*, in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, *[Name of Applicant]* respectfully requests that the Department grant this application, and any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments *[certificate of service, and exhibits and information required under section 204.3]*

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing application for [interstate] [foreign] air transportation authority by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[See section 302.203(b) included in Part III.]

*SAMPLE NOTICE OF INTENT TO RESUME SERVICE
FOLLOWING A CESSATION OF OPERATIONS*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Notice of

[*NAME OF CARRIER APPLICANT*]

of its intent to resume [*interstate*] [*foreign*] [*scheduled*] [*charter*]
air transportation following a cessation of operations pursuant to
14 CFR 204.7

DOCKET

NOTICE OF
[*NAME OF CARRIER APPLICANT*]

Communications with respect to this document should be sent to:

[*Name, address and telephone
number of persons to be contacted*]

[*Date of Notice*]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Notice of

[NAME OF CARRIER APPLICANT]

of its intent to resume [*interstate*] [*foreign*] [*scheduled*] [*charter*]
air transportation following a cessation of operations pursuant to
14 CFR 204.7

DOCKET

NOTICE OF
[NAME OF CARRIER APPLICANT]

Pursuant to section 204.7 of the Department's regulations, [*Name of Applicant*] submits this notice of its intent to resume [*interstate*] [*foreign*] [*scheduled*] [*charter*] air transportation under section 41102 of Title 49 of the United States Code ("the Statute"), following a cessation of operations.

*[Describe circumstances surrounding the cessation of operations and the proposed
recommencement of operations.]*

Information in support of the carrier's fitness to resume the proposed air transportation operations is contained in [*Exhibits*] [*Attachments*] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [*Name of Carrier Applicant*] respectfully requests that the Department find it to be fit to resume certificated air transportation operations, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[*Signature and Title*]

Attachments [*certificate of service, and exhibits and information required under section 204.3*]

SAMPLE CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that I have on this day served the foregoing notice of intent to resume certificated operations pursuant to 14 CFR 204.7 by first class mail, postage prepaid, upon the persons shown in the following service list.

[Signature and title]

[Date of Service]

SERVICE LIST

[See section 302.203(b) included in Part III.]

*SAMPLE APPLICATION FOR A WAIVER OF THE 45-DAY
ADVANCE FILING REQUIREMENTS OF 14 CFR 204.7*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the 45-day advance filing requirements of 14
CFR 204.7 and notice of intent to resume *[interstate]* *[foreign]*
[scheduled] *[charter]* air transportation following a cessation of
operations

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

Notice: Any person who wishes to support or oppose this application must file an answer by
[15 days after receipt of the application by the Department of Transportation] and serve that
answer on all persons served with this filing.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the 45-day advance filing requirements of 14 CFR 204.7 and notice of intent to resume [interstate] [foreign] [scheduled] [charter] air transportation following a cessation of operations

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

[Name of Carrier Applicant] submits this application for a waiver of 14 CFR 204.7 so that it may resume [interstate] [foreign] [scheduled] [charter] air transportation operations within 45 days of the date of this filing.

In support of its application [Name of Applicant] states the following:

[Describe the circumstances surrounding the cessation of operations, the proposed recommencement of operations, why the waiver is needed, and why the Department should grant the waiver and allow the resumption of service.]

Information in support of the applicant's waiver application and fitness to resume the proposed air transportation operations is contained in [Exhibits] [Attachments] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious,

or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, *[Name of Carrier Applicant]* respectfully requests that the Department grant the waiver and determine that *[Name of Carrier Applicant]* is fit to resume certificated air transportation operations, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments *[certificate of service, and exhibits and information required under section 204.3]*

*SAMPLE APPLICATION FOR A WAIVER OF THE
REVOCATION FOR DORMANCY PROVISIONS OF 14 CFR 204.7*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

DOCKET

for a waiver of the revocation for dormancy provisions of 14
CFR 204.7 *[and notice of intent to resume [interstate] [foreign]
[scheduled] [charter] air transportation following a cessation of
operations]*

APPLICATION OF
[NAME OF CARRIER APPLICANT]

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

Notice: Any person who wishes to support or oppose this application must file an answer by *[15 days after receipt of the application by the Department of Transportation]* and serve that answer on all persons served with this filing.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF CARRIER APPLICANT]

for a waiver of the revocation for dormancy provisions of 14
CFR 204.7 [*and notice of intent to resume* [*interstate*] [*foreign*]
[*scheduled*] [*charter*] *air transportation following a cessation of*
operations]

DOCKET

APPLICATION OF
[NAME OF CARRIER APPLICANT]

[*Name of Carrier Applicant*] submits this application for a waiver of the revocation-for-dormancy provisions of 14 CFR 204.7 so that it may resume [*interstate*] [*foreign*] [*scheduled*] [*charter*] air transportation operations.

In support of its application [*Name of Applicant*] states the following:

[Describe the circumstances surrounding the cessation of operations, the proposed recommencement of operations, why the waiver is needed, how much additional time the applicant needs before operations can resume, and why the Department should grant the waiver and allow the resumption of service.]

Information in support of the applicant's waiver application and fitness to resume the proposed air transportation operations is contained in [*Exhibits*] [*Attachments*] 1 through ____.

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized

representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, *[Name of Carrier Applicant]* respectfully requests that the Department grant the waiver and determine that *[Name of Carrier Applicant]* is fit to resume certificated air transportation operations, and grant any such other relief as it may find to be in the public interest.

Respectfully submitted,

[Signature and Title]

Attachments *[certificate of service, and exhibits and information required under section 204.3]*

*SAMPLE APPLICATION FOR THE TRANSFER OF
AIR CARRIER CERTIFICATE AUTHORITY*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF TRANSFEROR APPLICANT]

and

[NAME OF TRANSFEREE APPLICANT]

for the transfer of a certificate of public convenience and
necessity under 49 U.S.C. 41102 to engage in *[interstate]*
[foreign] *[scheduled]* *[charter]* air transportation

DOCKET

**APPLICATION OF
*[NAME OF APPLICANTS]***

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

Notice: Any person who wishes to support or oppose this application must file an answer by *[21 days after receipt of the application by the Department of Transportation]* and serve that answer on all persons served with this application.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF TRANSFEROR APPLICANT]

and

[NAME OF TRANSFEREE APPLICANT]

for the transfer of a certificate of public convenience and
necessity under 49 U.S.C. 41102 to engage in [interstate]
[foreign] [scheduled] [charter] air transportation

DOCKET

**APPLICATION OF
[NAME OF APPLICANTS]**

[Names of Applicants] submit this application for the transfer to [Name of Transferee] of the certificate of public convenience and necessity issued to [Name of Transferor] by Order [CAB or DOT Order Number] on [date] authorizing [Name of Transferor] to engage in [interstate] [foreign] [scheduled] [charter] air transportation pursuant to section 41102 of Title 49 of the United States Code (“the Statute”).

In support of its application [Names of Applicants] state the following:

[Describe the circumstances of the proposed transfer and reasons why the Department should approve it. Include a discussion of the effects of the transfer, if any, on (1) the viability of each carrier involved in the transfer, (2) competition in the domestic airline industry, and (3) the trade position of the United States in the international air transportation market.]

Information in support of [Name of Transferee]’s fitness to conduct the proposed air transportation operations is contained in [Exhibits] [Attachments] 1 through ____.

[The following certification shall be signed by a representative of the transferor and the transferee.]

The contents of this application and the attached exhibit(s) are true and correct to the best of my knowledge and belief. Pursuant to Title 18 United States Code Section 1001, I [*the individual signing the application, who shall be a principal owner, senior officer, or internal counsel of the applicant*], in my individual capacity and as the authorized representative of the applicant, have not in any manner knowingly and willfully falsified, concealed or failed to disclose any material fact or made any false, fictitious, or fraudulent statement or knowingly used any documents which contain such statements in connection with the preparation, filing or prosecution of the application. I understand that an individual who is found to have violated the provisions of 18 U.S.C. section 1001 shall be fined or imprisoned not more than five years, or both.

WHEREFORE, [*Names of Applicants*] respectfully request that the Department grant this application, and any such other relief as it may find to be in the public interest.

Respectfully submitted,

[*Signatures and Titles*]

Attachments [*certificate of service, and exhibits and information required under section 204.3*]

*SAMPLE MOTION FOR CONFIDENTIAL
TREATMENT OF DOCUMENTS*

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for a certificate of public convenience and necessity under
49.U.S.C. 41102 to engage in *[interstate]* *[foreign]* *[scheduled]*
[charter] air transportation

DOCKET

**MOTION OF *[NAME OF APPLICANT]*
TO WITHHOLD INFORMATION FROM PUBLIC DISCLOSURE**

Communications with respect to this document should be sent to:

*[Name, address and telephone
number of persons to be contacted]*

[Date of Application]

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Application of

[NAME OF APPLICANT]

for a certificate of public convenience and necessity under
49.U.S.C. 41102 to engage in [interstate] [foreign] [scheduled]
[charter] air transportation

DOCKET

**MOTION OF [NAME OF APPLICANT]
TO WITHHOLD INFORMATION FROM PUBLIC DISCLOSURE**

Pursuant to section 302.12 of the Department's Rules of Practice, [name of applicant] hereby moves to withhold from public disclosure [specify material to be withheld, e.g., Exhibits 2, 5 and 7 to the above-captioned application for the issuance of commuter air carrier authority]. These documents are being filed with this Motion in a sealed envelope marked "Confidential Materials - Rule 12 Treatment Requested." In support of this Motion, [name of applicant] submits the following:

[For each document for which non-disclosure is requested, describe the document in general terms (e.g., the applicant's internal business or marketing plan, letter of intent from aircraft lessor, shareholder agreement, personal financial statements of owner or lender).]

The information [name of applicant] seeks to withhold from public disclosure is (1) commercial or financial, (2) obtained from a person outside the government, and (3) privileged or confidential. Moreover, release of this information would cause substantial harm to the competitive position of [name of applicant] or the individual from whom the information was obtained.

[Explain how the information for which non-disclosure is requested falls into one or more of the categories discussed in the preceding paragraph, e.g., "Exhibit 3 contains sensitive financial and commercial information, including proprietary details of the applicant's marketing research, that could be used by competitors to impede the applicant's plans to undertake the proposed air service. Moreover, the information in this exhibit is highly detailed and would not otherwise be made accessible to persons outside the

company.”] Therefore, this information should be afforded confidential treatment by the Department.

THUS, *[name of applicant]* requests that *[identify documents]*, submitted in a sealed enveloped with this Motion, be accorded confidential treatment under Rule 12.

Respectfully submitted,

[Signature and Title]

Attachments *[certificate of service and information for which confidential treatment is requested, which shall be attached to the motion in a sealed envelope with the name of the applicant, authority requested, docket number, and the notation: “Confidential Materials - Rule 12 Treatment Requested.”]*

PART III

APPLICABLE DEPARTMENT OF TRANSPORTATION REGULATIONS

CFR Parts 200, 201, 203, 204, 205, 206, 243, 291, 298, 302

PART IV

SAMPLE FORMS

AFFIDAVIT OF CITIZENSHIP

STATE OF _____

COUNTY OF _____

_____ *[name]* _____ being first duly sworn, deposes and says:

1. That he/she is duly elected, qualified, and serving as _____ *[officer]* _____.

of _____ *[applicant's name]* _____ and that he/she is authorized to and
does make this affidavit for it.

2. That _____ *[applicant's name]* _____ is a citizen of the United States

within the meaning of 49 U.S.C. 40102(a)(15).

_____ *[signature]* _____.

Subscribed and sworn to before me this _____ day of _____, 200_.

_____ *[signature of Notary Public]* _____.

(SEAL)

AFFIDAVIT OF SAFETY COMPLIANCE

STATE OF _____

COUNTY OF _____

_____ *[name]* _____ being first duly sworn, deposes and says:

1. That he/she is duly elected, qualified, and serving as _____ *[officer]* _____.

of _____ *[applicant's name]* _____ and that he/she is authorized to and
does make this affidavit for it.

2. That all aircraft owned and leased by _____ *[applicant's name]* _____.

have been certified by the Federal Aviation Administration and currently comply with
all applicable Federal Aviation Administration safety standards under Parts *[121]* *[135]*,
as well as the noise standards of Part 36, of the Federal Aviation Regulations.

_____ *[signature]* _____.

Subscribed and sworn to before me this _____ day of _____, 200_.

_____ *[signature of Notary Public]* _____.

(SEAL)

**INSTRUCTIONS FOR COMPLETING
CERTIFICATE OF INSURANCE
OST FORM 6410**

OST Form 6410 is to be completed by an officer or authorized representative of an insurance company or broker and an original, signed copy is to be filed with: Flight Standards Service (AFS-260), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591. However, certificates for U.S. commuter air carriers should be filed with: Air Carrier Fitness Division (X-56), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

Line 1. Enter name and address of the insurance company.

Lines 2-3. Enter name and address of air carrier insured by the policy. If an insurance policy is issued to a person or company other than the air carrier, the certificate of insurance must state that the air carrier is also covered under that policy.

Line 4. Enter the effective date of the policy. Note that the policy must remain in effect and cannot be cancelled on less than ten days' written notice to the Department.

Section 1. State whether the insurance company is licensed to issue aircraft insurance policies in the United States or by a foreign government or is an approved surplus lines insurer. Note that more than one block may be checked.

Section 2. Part A. U.S. Air Taxi Operators with Part 298 Authority Only. This part should be completed only for air taxi operators with authority under Part 298 to operate aircraft having **60 seats or less** or a **payload capacity of 18,000 pounds or less, not in scheduled passenger service.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 2. Part B. U.S. Commuter and Certificated Air Carriers Operating Small Aircraft. This part should be completed only for commuter or certificated air carriers operating aircraft that have **60 seats or less** or a **payload capacity of 18,000 pounds or less.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 2. Part C. U.S. Certificated Air Carriers Operating Large Aircraft. This part should be completed only for certificated air carriers operating aircraft that have **more than 60 seats** or a **payload capacity of more than 18,000 pounds.** Indicate whether the insured air carrier has separate coverages or combined coverage by marking the appropriate block and placing the policy number and amount of coverage in the specified places. Please note that the minimum limits of liability required by the Department are already listed on the certificate.

Section 3 Indicate whether the policy covers (1) all aircraft operated by the insured air carrier, or (2) specify the general groups or types of aircraft which the policy covers, or (3) the FAA registration number and the type of each aircraft covered by the policy (use additional page if necessary). For air taxi operators and commuter air carriers: All aircraft listed on OST Form 4507 must be covered by a currently effective certificate of insurance and the FAA registration number of such aircraft must conform exactly to that listed on OST Form 4507.

Section 4. Indicate name, address, contact person, and telephone numbers (office/fax) of insurer and, if applicable, of the broker. This form must be signed by an officer or authorized representative of the insurance company or broker.

OST Form 6410 is not reproduced in the Internet version of this booklet. A copy may be obtained from the Air Carrier Fitness Division (X-56), Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-9721, or a copy may be viewed and printed at the following Internet site: <http://ostpxweb.dot.gov/aviation>. At this site, click on “International and Domestic Aviation” then click on “Economic Authority” and scroll down and click on “OST Form 6410”.

**INTERIM AGREEMENT OF AIR CARRIERS
("MONTREAL AGREEMENT")
EXPLANATORY STATEMENT**

In 1934, the United States became a party to an international agreement, generally known as the Warsaw Convention, which was the first agreement between countries to provide for any uniform body of law with respect to the rights and responsibilities of passengers and air carriers in international transportation. Among other things, the Warsaw Convention set a limit on the liability an air carrier could incur with respect to bodily injury or death of any passenger carried in international air transportation,¹⁹ which, in today's terms, is approximately \$10,000.

In 1966, the United States indicated its intent to denounce the Warsaw Convention because of its dissatisfaction with the Convention's \$10,000 limit on an air carrier's liability to passengers. The U.S. withdrew its denunciation when all carriers serving this country, both U.S. and foreign, entered into the "Montreal Agreement." That Agreement increases the Warsaw Convention liability limit to \$75,000 per passenger.²⁰ The Agreement also provides that a carrier is strictly liable for a passenger's bodily injury or death up to the liability limit even if the carrier can prove that it was not negligent in causing the accident.

The Department requires all air carriers to become signatories to the Montreal Agreement to ensure that passengers are covered by the higher limits of liability provided by that Agreement. This is accomplished by completing and filing OST Form 4523.

INSTRUCTIONS FOR COMPLETING OST FORM 4523

1. The form must be signed by an officer of the carrier.
2. The signing person's title and the name and address of the air carrier should be listed in the space provided.
3. An original and three copies of the form should be filed with the Department of Transportation Dockets, Rm. PL-401, 400 Seventh Street, S.W., Washington, D.C. 20590. If filed at the time of application for air carrier authority, the form should be filed separately, *i.e.*, not assembled as part of or an exhibit to the application.

¹⁹ International air transportation not only includes transportation between a U.S. point and a foreign point, but also service wholly within the U.S. if the passenger holds a ticket providing an interline connection to a foreign point.

²⁰ This limit on liability should not be confused with the Department's mandatory liability insurance requirements for air carriers, which are required for all operations, both domestic and international, and which are intended to provide a source of funds in the event of an aircraft accident.

AGREEMENT

The undersigned carriers (hereinafter referred to as "the Carriers") hereby agree as follows:

1. Each of the Carriers shall, effective May 16, 1966, include the following in its conditions of carriage, including tariffs embodying conditions of carriage filed by it with any government:

"The Carrier shall avail itself of the limitation of liability provided in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw October 12th, 1929, or provided in the said Convention as amended by the Protocol signed at The Hague September 28th, 1955. However, in accordance with Article 22(1) of said Convention, or said Convention as amended by said Protocol, the Carrier agrees that, as to all international transportation by the Carrier as defined in the said Convention or said Convention as amended by said Protocol, which, according to the contract of Carriage, includes a point in the United States of America as a point of origin, point of destination, or agreed stopping place

- (1) The limit of liability for each passenger for death, wounding, or other bodily injury shall be the sum of US \$75,000 inclusive of legal fees and costs, except that, in case of a claim brought in a State where provision is made for separate award of legal fees and costs, the limit shall be the sum of US \$58,000 exclusive of legal fees and costs.
- (2) The Carrier shall not, with respect to any claim arising out of the death, wounding, or other bodily injury of a passenger, avail itself of any defense under Article 20(1) of said Convention or said Convention as amended by said Protocol.

Nothing herein shall be deemed to affect the rights and liabilities of the Carrier with regard to any claims brought by, on behalf of, or in respect of any person who has willfully caused damage which resulted in death, wounding, or other bodily injury of a passenger."

2. Each Carrier shall, at the time of delivery of the ticket, furnish to each passenger whose transportation is governed by the Convention, or the Convention as amended by the Hague Protocol, and by the special contract described in paragraph 1, the following notice, which shall be printed in type at least as large as 10 point modern type and in ink contrasting with the stock on (i) each ticket; (ii) a piece of paper either placed in the ticket envelope with the ticket or attached to the ticket; or (iii) on the ticket envelope:

"ADVICE TO INTERNATIONAL PASSENGER ON LIMITATION OF LIABILITY

Passengers on a journey involving an ultimate destination or a stop in a country other than the country of origin are advised that the provisions of a treaty known as the Warsaw Convention may be applicable to the entire journey, including any portion entirely within the country of origin or destination. For such passengers on a journey to, from, or with an agreed stopping place in the United States of America, the Convention and special contracts of carriage embodied in applicable tariffs provide that the liability of

[certain] *
[(name of carrier) and certain other] carriers parties to such special contracts for death of or personal injury to passengers is limited in most cases to proven damages not to exceed US \$75,000 per passenger, and that this liability up to such limit shall not depend on negligence on the part of the carrier. For such passengers traveling by a carrier not a party to such special contracts or on a journey not to, from, or having an agreed stopping place in the United States of America, liability of the carrier for death or personal injury to passengers is limited in most cases to approximately US \$10,000 or US \$20,000.

The names of Carriers parties to such special contracts are available at all ticket offices of such carriers and may be examined on request.

Additional protection can usually be obtained by purchasing insurance from a private company. Such insurance is not affected by any limitation of the carrier's liability under the Warsaw Convention or such special contracts of carriage. For further information please consult your airline or insurance company representative."

3. [The Agreement was filed with the Civil Aeronautics Board of the United States. The Board approved it by Order E-23680, adopted May 13, 1966. The Agreement (Agreement 18900) became effective May 16, 1966. On January 1, 1985, this Agreement became the responsibility of the Department of Transportation (DOT) by operation of law.]

4. This Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any Carrier may become a party to this Agreement by signing a counterpart hereof and depositing it with DOT.

5. Any Carrier party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to DOT and the other Carriers parties to the Agreement.

* Either alternative may be used.

[signature and title]

[name of carrier]

[address of carrier]